

EDUCATION DEPARTMENT[281]

Adopted and Filed

Pursuant to the authority of Iowa Code section 256.7(5), the State Board of Education hereby amends Chapter 33, “Educating the Homeless,” Iowa Administrative Code.

The revised Chapter 33 incorporates changes to the McKinney-Vento Homeless Assistance Act (42 U.S.C. § 11431, et seq.), as reauthorized in December 2015 by the Every Student Succeeds Act (ESSA). The amendments as a result of ESSA include modifying the requirements of the State Plan to include procedures that ensure that homeless students have equal access to the same free, appropriate public education, including a public preschool education, as provided to other students. This equal access includes removing barriers that prevent students from accessing academic or extracurricular activities because of their homelessness. Other amendments include removal of “awaiting foster care placement” from the definition of “homeless child or youth,” revisions to the definition of “school of origin,” and clarifications regarding required transportation for the school of origin.

An agencywide waiver provision is provided in 281—Chapter 4.

Notice of Intended Action was published in the June 7, 2017, Iowa Administrative Bulletin as **ARC 3089C**. Public comments were allowed until 4:30 p.m. on June 27, 2017. A public hearing was held on that date. No one attended the public hearing, and no comments were received. These amendments are identical to those published under Notice.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement the provisions of the McKinney-Vento Homeless Assistance Act (42 U.S.C. § 11431, et seq.), as reauthorized in December 2015 by the Every Student Succeeds Act (ESSA).

These amendments will become effective October 4, 2017.

The following amendments are adopted.

ITEM 1. Amend **281—Chapter 33**, title, as follows:

EDUCATING THE HOMELESS CHILDREN AND YOUTH

ITEM 2. Amend rule 281—33.2(256) as follows:

281—33.2(256) Definitions.

“*District of origin*” is defined as the public school district in Iowa in which the child was last enrolled or which the child last attended when permanently housed.

“*Guardian*” is defined as a person of majority age with whom a homeless child or youth of school age is living or a person of majority age who has accepted responsibility for the homeless child or youth, whether or not the person has legal guardianship over the child or youth.

“*Homeless child or youth*” is defined as a child or youth from the age of 3 years through 21 years who lacks a fixed, regular, and adequate nighttime residence and includes the following:

1. A child or youth who is sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason; is living in a motel, hotel, trailer park, or camping grounds due to the lack of alternative adequate accommodations; is living in an emergency or transitional shelter; or is abandoned in a hospital; ~~or is awaiting foster care placement;~~

2. A child or youth who has a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings;

3. A child or youth who is living in a car, park, public space, abandoned building, substandard housing, bus or train station, or similar setting; or

4. A migratory child or youth who qualifies as homeless because the child or youth is living in circumstances described in paragraphs “1” through “3” above.

“*Preschool child*” is defined as a child who is three, four, or five years of age before September 15.

“School of origin” is defined as the school that a child or youth attended when permanently housed or the school in which the child or youth was last enrolled, including a preschool. When the child or youth completes the final grade level served by the school of origin, the term “school of origin” shall include the designated receiving school at the next grade level for all feeder schools.

“Unaccompanied youth” is defined as a youth not in the physical custody of a parent or guardian.

ITEM 3. Amend subrule 33.3(3) as follows:

33.3(3) The board shall examine and revise, if necessary, existing school policies or rules that create barriers to the enrollment of homeless children or youth, consistent with these rules. Examination and revision include identifying and removing barriers that prevent such children and youth from receiving appropriate credit for full or partial coursework satisfactorily completed while attending a prior school, in accordance with state, local, and school policies. Examination and revision also include ensuring that homeless children and youth who meet the relevant eligibility criteria do not face barriers to accessing academic and extracurricular activities, including magnet school, summer school, career and technical education, advanced placement, online learning, and charter school programs, if such programs are available at the state and local levels. School districts are encouraged to cooperate with agencies and organizations for the homeless to explore comprehensive, equivalent alternative educational programs and support services for homeless children and youth when necessary to implement the intent of these rules.

ITEM 4. Amend subrule 33.3(7) as follows:

33.3(7) The board shall designate ~~an appropriate staff person~~ as the district’s local educational agency liaison for homeless children and youth an appropriate staff person who is able to and has been trained to carry out the following duties:

a. Ensure that a homeless child or youth is identified by school personnel ~~and~~ through outreach and coordination activities with other entities and agencies;

b. Ensure that ~~a homeless child or children and~~ youth is are enrolled in, and ~~has~~ have a full and equal opportunity to succeed in, schools of the district;

c. Ensure that homeless families, and homeless children, and youth receive educational services for which such families, children, and youth are eligible, including services through Head Start ~~and Even Start~~ programs (including Early Head Start programs) under the Head Start Act (42 U.S.C. Section 9831, et seq.), early intervention services under Part C of the Individuals with Disabilities Education Act (20 U.S.C. Section 1431, et seq.), ~~tuition-free~~ and other preschool programs administered by the district, and referrals to health care services, dental services, mental health services, and other appropriate services;

d. Ensure that homeless families and homeless children and youth receive referrals to health care services, dental services, mental health and substance abuse services, housing services, and other appropriate services;

~~*e.*~~ *e.* Ensure that the parents or guardians of homeless children and youth are informed of the educational and related opportunities available to their children and are provided with meaningful opportunities to participate in the education of their children;

~~*f.*~~ *f.* Ensure that public notice of the educational rights of homeless children and youth is disseminated ~~where such children and youth receive services under the federal McKinney-Vento Homeless Assistance Act, such as~~ in locations frequented by parents or guardians of such children and youth, and unaccompanied youth, including schools, family shelters, public libraries, and soup kitchens, in a manner and form understandable to the parents and guardians of homeless children and youth, and unaccompanied youth;

~~*g.*~~ *g.* Ensure that enrollment disputes are mediated in accordance with 42 U.S.C. Section 11432(g)(3)(E), which requires the following:

(1) The child or youth shall be immediately enrolled in the school in which enrollment is sought, pending resolution of the dispute (which must be either the local attendance center or the school of origin);

(2) The parent or guardian of the child or youth shall be provided with a written explanation of the school's decision regarding school selection or enrollment, including the rights of the parent, guardian, or youth to appeal the decision;

(3) The child, youth, parent, or guardian shall be referred to the local educational agency liaison designated under this subrule, who shall carry out the dispute resolution process set forth in rule 281—33.9(256);

(4) In the case of an unaccompanied youth, the local educational agency liaison shall ensure that the youth is immediately enrolled in the school in which enrollment is sought pending resolution of the dispute;

~~g.~~ h. Ensure that the parent or guardian of a homeless child or youth, or the unaccompanied youth, is fully informed of all transportation services and is assisted in accessing transportation to the school of enrollment;

i. Ensure that school personnel providing services under this chapter receive professional development and other support;

j. Ensure that unaccompanied homeless youth:

(1) Are enrolled in school;

(2) Have opportunities to meet the same challenging academic standards as are established for other children and youth, including through implementation of the procedures under the Every Student Succeeds Act; and

(3) Are informed of their status as independent students under Section 480 of the Higher Education Act of 1965 (20 U.S.C. 1087vv) and that the youth may obtain assistance from the local educational agency liaison to receive verification of such status for the purposes of the Free Application for Federal Student Aid described in Section 483 of such Act (20 U.S.C. 1090); and

~~h.~~ k. Coordinate and collaborate with state coordinators and community and school personnel responsible for the provision of education and related services to homeless children and youth.

ITEM 5. Amend subrule 33.9(1) as follows:

33.9(1) If the child is identified as a special education student under Iowa Code chapter 256B, the manner of appeal shall be by letter from the homeless child or youth, or the homeless ~~child~~ child's or youth's parent or guardian, to the department of education as established in Iowa Code section 256B.6 and ~~Iowa Administrative Code 281—41.32(17A,256B,290)~~ rule 281—41.508(256B,34CFR300). The letter shall not be rejected for lack of notarization, however. Representatives of the public school district where the child or youth desires to attend and of the corresponding area education agency, as well as the child, youth, or parent or guardian of the child or youth, shall present themselves at the time and place designated by the department of education for hearing on the issue. The hearing shall be held in accordance with ~~the rules established in 281—41.32(17A,256B,290)~~ rule 281—41.508(256B,34CFR300).

ITEM 6. Amend rule 281—33.11(256) as follows:

281—33.11(256) School services.

33.11(1) The school district designated for the homeless child's or youth's enrollment shall make available to the child or youth all services and assistance, including but not limited to the following services, on the same basis as those services and assistance are provided to resident pupils:

- a. Compensatory education;
- b. Special education;
- c. English as a Second Language;
- d. ~~Vocational~~ Career and technical education courses or programs;
- e. Programs for gifted and talented pupils;
- f. Health services;
- g. Preschool (including Head Start ~~and Even-Start~~);
- h. ~~Before~~ Before- and after-school ~~after-school~~ child care;
- i. Food and nutrition programs;

j. School counseling services to advise homeless students and prepare and improve the readiness of such students for college.

33.11(2) A district must include homeless students in its academic assessment and accountability system under the federal ~~No Child Left Behind Act, P.L. 107-110~~ Every Student Succeeds Act, P.L. 114-95. ~~Assessments should be included in the economically disadvantaged category for reporting purposes. Schools are not required to disaggregate information regarding homeless students as a separate category, but may be asked to do so in accordance with the duties of the United States Secretary of Education and the Office of the State Coordinator.~~ A district must report disaggregated data regarding the academic achievement and graduation rates for homeless children, as required by Section 1111 of the Every Student Succeeds Act.

ITEM 7. Amend **281—Chapter 33**, implementation sentence, as follows:

These rules are intended to implement the provisions of the ~~Stewart B. McKinney Homeless Assistance Act, as reauthorized in January 2002 as the McKinney-Vento Homeless Assistance Act (42 U.S.C. § 11431, et seq.),~~ as reauthorized December 10, 2015, by Title IX, Part A, of the Every Student Succeeds Act.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 8/30/17.